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BY ELECTRONIC MAIL (regs.comments@federalreserve.gov)

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Community Reinvestment Act; Docket No. R-1723 and RIN 7100-AF94

To Whom It May Concern:

We are pleased to submit these comments to the Board of Governors of the Federal Reserve System (Federal Reserve) in response to the Advance Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA). Frost Bank (Frost), a state-member bank headquartered in San Antonio, Texas, provides a wide range of banking, investments, and insurance services to businesses and individuals across Texas in the Austin, Corpus Christi, Dallas, Fort Worth, Houston, Permian Basin, Rio Grande Valley and San Antonio regions. Founded in 1868, Frost has helped clients with their financial needs during three centuries.

Frost is committed to the overall well-being of the communities we serve and supports the goals of CRA. We believe banks have an obligation to help meet the credit needs of their communities, including low- and moderate-income (LMI) areas, consistent with safe and sound lending practices. Since its inception, CRA has provided local communities access to billions of dollars from financial institutions across the nation, yet CRA has not been meaningfully updated in decades and often fails to consider the realities of banking today. CRA reform is needed to ensure its continued effectiveness in the current banking landscape.

I. Federal Banking Agencies Should Work Together on CRA Reform

Frost applauds and supports the efforts of the Federal Reserve and the other federal banking agencies to modernize and improve the CRA regulation. Today's rules are often applied with subjectivity and inconsistency between examinations, examination teams, and regulators. CRA reform is wanted and needed, and we strongly encourage the Federal Reserve, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) to work together toward a single uniform framework for CRA. We believe CRA reform can and should provide more clarity and certainty in rules and guidance, provide flexibility for different business models and strategies, and address digital transformation and the changing preferences of consumers and small businesses.

Since 1978, the three prudential regulators have worked together on CRA rulemaking and promulgating a fragmented approach now will create even more inconsistencies for financial institutions and confusion for communities and will discourage financial institutions with different regulators from partnering on CRA activities. A fragmented approach is likely to slow meaningful improvements in CRA moving forward. To maintain a level CRA playing field and facilitate accurate comparisons in bank CRA performance, we strongly encourage the Federal Reserve to act in tandem with the other prudential regulators in issuing uniform rules, interpretations, and guidelines.

II. Modernizing Assessment Areas

Frost is aligned with the Federal Reserve in recognizing the need for CRA modernization. While Frost agrees that bank branches retain importance in a modernized CRA framework, advances in technology and digital banking have introduced new methods of deposit taking and lending that do not follow conventional facility-based assessment areas.

Flexibility must be captured in different elements of an assessment area framework. For example, for those banks that engage in considerable business beyond their branch-based assessment areas or those that provide all or a substantial amount of their products and services via mobile and internet channels, a facility-based assessment area framework would not align with the spirit of CRA and an alternative approach for delineating assessment areas should be established. However, banks with branch footprints also are increasing their use of digital and remote capabilities, and we urge the Federal Reserve to fully consider the impact of a modernized framework on all bank business models.

Frost is also in favor of giving banks the option of delineating facility-based assessment areas around deposit-taking ATMs, while not requiring that they do so. Likewise, banks that use Loan Production Offices (LPOs) to facilitate more targeted CRA activity in an area should have the option of expanding their assessment areas to include the LPOs, so they can be evaluated for those activities.

Evaluating activities outside of the traditional facility-based assessment areas brings concerns whether deposit or lending based. We recommend the Federal Reserve remain flexible and set reasonable expectations for the delineation of assessment areas based on each individual bank's size, business model, and distribution channels.

III. Retail Lending Metrics

Frost believes CRA reform can and should result in more clarity and certainty in rules and guidance, provide flexibility for different business models and strategies, and address digital transformation and changing customer preferences. Current evaluation methods are vague on the levels of activity necessary to achieve particular ratings. While Frost is in favor of the establishment of clearer metrics and thresholds, business models, strategies, and products and services are not the same for every financial institution and each bank should be evaluated not only against the market and/or community metrics, but also on its own individual merits. CRA compliance cannot be assessed based on unidimensional statistical analysis. When working with communities, one size does not fit all. We strongly urge the Federal Reserve to maintain the use of performance context in all areas and not to rely solely on metrics.

A. The Retail Lending Screen Should Not Create Affirmative Obligations

Frost recognizes the potential benefits of a retail lending screen as the first step to evaluate a bank's retail lending relative to its capacity to lend and to streamline a presumption of "satisfactory", however, more clarity is needed on the following questions: Would a bank's specific product offering and assessment area be considered when comparing individual results to the market benchmark? How often would the retail lending screen be made available and to whom? How current are the metrics being used to evaluate retail lending performance? Would the frequency of CRA data reporting change? While the possibility of a metrics-based presumption of "satisfactory" is appealing, there are many unanswered questions, and the Federal Reserve should clarify that it is not an affirmative obligation to reach a certain level of activity to receive a satisfactory or outstanding rating later in an evaluation. The Federal Reserve should still consider important performance context factors in making its evaluation.

B. The Federal Reserve Should Use Loan Counts in Its Retail Distributions Analysis

Frost agrees with the Federal Reserve that continuing to count originations and purchased loans as part of the retail lending distribution analysis is a more reasonable approach than using dollar amounts. The approach of using loan count helps to ensure sufficient consideration is given to mortgages and small business loans which are vital to serving LMI communities but may not result in large dollar volumes.

C. All Categories of Home Mortgage Loans Should Not Be Aggregated When Evaluating Home Mortgage Lending

Frost has serious concerns about the impact of aggregating all categories of home mortgage loans together when evaluating home mortgage lending. Mortgages and home equity products, especially home equity lines of credit (HELOC), are very different products and to aggregate these categories would substantially increase the need for performance context evaluations. We believe the bank should be given the option to ensure all home mortgage products are properly represented in future evaluations.

D. Evaluation of Consumer Loan Products Should Remain Optional

Recognizing the importance of small-dollar loans and consumer lending to LMI borrowers, Frost believes that the evaluation of consumer loan products for purposes of CRA should remain optional for financial institutions as it is now. Mandatory inclusion of consumer lending for CRA evaluation is a significant expansion of a bank's affirmative CRA obligations and creates an additional burden on banks for originating and reporting these loans. Some products that may fall in scope based on count or dollars may not be an option for borrowers of all income levels. For example, unsecured consumer loans, such as personal lines of credit, are underwritten on the strength of the borrower's income, assets, and credit history, and middle- and upper-income borrowers are more likely to qualify than LMI borrowers. In addition, the approach of including consumer loans based on count or dollar volume potentially eliminates the evaluation of products specifically developed for LMI borrowers and communities.

If the Federal Reserve moves forward with its proposal to include consumer loan products in the CRA evaluation, we urge that the percentage threshold for inclusion be increased from 15 percent to 30 percent of a bank's loan portfolio dollar value and a minimum number of originations be established for inclusion. Frost also recommends that consumer loan categories be evaluated separately, not in the aggregate. Due to the lack of consistent data on consumer loans, the Federal Reserve should proceed with caution in establishing benchmarks for consumer lending.

E. Frost Urges Caution in Setting Performance Benchmarks

Frost is encouraged by the Federal Reserve's proposed metrics-based approach and use of various benchmarks to establish more quantitative thresholds for evaluating retail lending performance. To ensure evaluation measures are appropriately set, standards should reflect real market conditions where banks conduct CRA activity. Frost is further encouraged by the establishment of a quantitative approach for banks to receive a presumption of a satisfactory rating. However, it is important that whatever quantitative factors are set are only established to provide a presumption of a satisfactory rating and do not create additional hurdles for banks to overcome to receive that rating. Performance context should remain key in the ratings determination.

The Federal Reserve should proceed with caution in changes to benchmarks, closely analyzing data sources and their effectiveness in setting the planned community and market benchmarks. Non-bank lenders--with an increasing market share of mortgage and consumer lending activity--do not have CRA obligations and should not be included in the mortgage and consumer lending datasets as doing so may paint a skewed picture of the actual activity in an area. Including only data from deposit-taking institutions can help ensure benchmarks are set properly. We encourage the Federal Reserve to look closely at benchmarks set for smaller assessment areas and not implement the same thresholds or expectations as those in large assessment areas. Benchmarks should be tailored for local community and market conditions and use local data specific to each assessment area.

F. Adjustment of Small Business Gross Annual Revenue Threshold

Adjusting the $1 million gross annual revenue threshold for small business loans to $2 million is appropriate. However, Frost would recommend it be reviewed in the future in conjunction with the American Community Surveys rather than the rate of inflation, to make the adjustments more predictable and less frequent.

IV. <u>Retail Services Test</u>

Frost agrees with the Federal Reserve's proposed approach for evaluating the full breadth of bank delivery systems, maintaining the emphasis on the importance of branches while recognizing the increased focus on non-branch delivery channels. Frost also appreciates the Federal Reserve's efforts to establish more quantitative factors for evaluating branch networks.

A. Branch Distribution

Frost believes it is reasonable to create community and market benchmarks comparing a bank's branch distribution to local data to determine whether branches are accessible in LMI communities, to individuals of different income levels, and to businesses in the assessment area. The Federal Reserve's language ensuring benchmarks are meant only to set the foundation for analysis of branch distribution, and not to become a threshold the bank must meet in each assessment area, is appropriate and should become the standard. As outlined in the discussion throughout the ANPR, the data used can help give important performance context to where branches are located within an assessment area, which can help examiners evaluate branch distribution. This performance context is necessary for a full evaluation not solely determined on the number of branches in LMI areas. Establishing more transparent benchmarks surrounding branch distribution is pertinent and will be useful in ensuring branches continue to serve those communities that need them most.

When a bank has a limited number of branches in an assessment area, we appreciate and agree with the Federal Reserve that the branch distribution analysis should be done qualitatively without the use of community and market benchmarks.

We urge the Federal Reserve to keep in mind that branch distribution can change when the census is conducted, because results are based solely on those that respond to the census. Financial institutions that have branches in LMI census tracts may at times lose LMI branches based on the census results. This is beyond the control of the financial institution but nonetheless could have adverse effects on a CRA exam.

We also encourage the Federal Reserve to give consideration to branches located in middle- and upper-income census tracts that are adjacent to LMI census tracts when information can be provided to support the benefit to the adjacent LMI community.

B. Non-Branch Delivery Channels

With the increasing use of online and mobile banking services, Frost appreciates the Federal Reserve's efforts to add clarity and enhance the approach to evaluating the availability and effectiveness of non-branch delivery channels in helping to meet the needs of LMI communities and individuals. Properly capturing these important technologies can help examiners better understand the levels of activity that take place away from the branch. Frost is in alignment with the Federal Reserve's mission to find better and more consistent data, while avoiding burdensome data requests, and urges the Federal Reserve to remain committed to this principle as it considers potential datasets to use.

C. Deposit Products

While Frost appreciates the Federal Reserve's efforts to create a "second prong" to the Retail Service Subtest focusing specifically on the degree to which deposit products are responsive to the needs of LMI consumers, Frost urges the Federal Reserve to continue to make many of the proposed features optional. Financial institutions already submit information on many of the proposed categories which would serve the Federal Reserve's stated goals to help increase transparency and provide more information on the types of deposit products which should be considered. Expanding the focus on deposit products would significantly expand current data requirements and would create a significant burden on financial institutions. New supervisory standards for evaluating deposit products would need to be established and tested before financial institutions would understand and be able to implement such a large task. Given the recognized challenges of providing new and often proprietary data to the Federal Reserve, banks should be permitted to submit this data and participate in the resulting analysis at their option.

Frost does not agree with the mandatory inclusion of a strategic statement for large banks articulating their approach to offering retail banking products. The self-evaluation provides appropriate performance context.

V. Community Development Financing

A. The Federal Reserve Should Proceed with Combining Community Development Loans and Investments

Frost supports the proposal to evaluate community development loans and qualified investments under one subtest. We believe it streamlines the evaluation for both and could help improve the types of community development activities banks engage in every day. Frost further supports counting prior period balances in the new subtest to further encourage meaningful, well considered community development loans and investments.

B. The Federal Reserve Should Clarify & Refine the Community Development Financing Metric

Frost values the Federal Reserve's commitment to more accurately quantifying community development activity through the use of its community development financing metric. Further, we agree with the approach of using the ratio of dollars of community development financing activities to deposits to measure a bank's capacity to lend and invest within an assessment area.

Using FDIC Summary of Deposits (SOD) data to measure the dollar amount of deposits assigned to branches within a bank's assessment area seems to be reasonable and the correct data source for the denominator of the community development financing metric. The Federal Reserve should, however, consider excluding corporate and commercial deposits from the equation as these deposits may skew the data in certain assessment areas; more importantly, there is a weaker relationship between these deposits and the statutory purpose of CRA.

C. The Federal Reserve Should Work to Establish Flexible and Meaningful Benchmarks and Thresholds

While we appreciate the Federal Reserve's efforts to provide better clarity and certainty regarding the evaluation criteria and expectations for community development financing and the establishment of thresholds for granting a presumptive conclusion of "satisfactory" performance, Frost has concerns with the benchmarks and thresholds described in the ANPR. First, Frost is extremely concerned that the additional data collection and reporting requirements required to properly establish benchmarks may become onerous and outweigh any potential benefits. We urge the Federal Reserve to carefully analyze the real costs and frequency of new data collection to ensure it helps establish sound and reputable benchmarks. Additionally, Frost shares the concerns raised in the ANPR regarding disparities where performance standards are very low in some assessment areas and very high in others based on past community development financing patterns. Finally, Frost is a state-chartered bank operating only in the state of Texas; we do not believe we should be held to the standard of a national benchmark, since that benchmark would not properly compensate for disparities in local markets.

D. The Federal Reserve Should Consider Qualitative Considerations Within the Community Development Financing Subtest Framework

Frost strongly encourages the Federal Reserve to incorporate performance context and other qualitative factors into the evaluation process. When community development loan and investment opportunities become available, there are multiple financial institutions competing for the same opportunities, and typically the lowest bid wins. That may make it difficult for many small and mid-sized banks to compete. Also, impactful smaller dollar activities that may have little or no impact on a bank's community development financing metric should be considered. Performance context factors should continue to play an important role.

Impact scores to weight certain categories of community development financing activity would be welcomed, but should remain optional for the bank. Community development financing opportunities vary across assessment areas. For example, opportunities to invest in CDFI's may not exist in certain assessment areas, specifically in smaller assessment areas. In addition, the bank's investment strategies and risk appetite should be fully considered when evaluating performance. For example, a bank may have very valid reasons for not investing in tax credits, and that should be taken into consideration when measuring the level of community development financing. Performance context factors should continue to play an important role in evaluating community development financing activities.

VI. Community Development Services

A. The Federal Reserve Should Expand Qualifying Community Development Services

Frost is a strong provider of community development services in all of our assessment areas. Giving back to our communities is part of our philosophy and culture. Frost currently tracks and reports to the Federal Reserve community service hours, number of financial education classes, number of people served, etc. We feel strongly that these reports provide good metrics to evaluate service activity. Placing a dollar value on these services could skew results and may not be a fair measure for all financial institutions, particularly those like Frost.

Frost also supports the proposal to revise the definition of community development services to include a wider range of activities. The definition of financial services should be expanded to encompass the many layers of CRA activities. For example, providing funding to build a Habitat for Humanity house qualifies for CRA credit, but providing the staff to assist with construction — which keeps the house affordable (indirect financial impact) for the low-income family — does not qualify. Both activities contribute to the affordability of the house, which is financially related,

Providing financial education to non-LMI individuals and businesses should also be eligible for CRA in certain circumstance. Children, regardless of their age or their parent's income level, need to learn about finances. Small business audience sizes are sometimes hard to document and can be mixed, yet that does not make the education provided any less important. As long as the "intent" and "targeted" audience is majority LMI or small business as defined by CRA, the event should be given CRA consideration.

B. The Federal Reserve Should Increase Consideration for Affordable Housing Programs

Affordable housing programs are one of the most vital and responsive activities established throughout CRA. Housing programs should be encouraged and strengthened through CRA reforms.

C. Frost Supports Improvements to Pro-Rata Consideration

Frost supports the Federal Reserve's efforts to improve appropriate consideration for mixed-income developments. We urge the Federal Reserve to consider mixed-income projects in the full context of the value they bring to LMI residents. Inclusion is an important component of mixed-income projects, and Frost supports efforts to incentivize mixed-income housing consideration.

D. The Federal Reserve Should Continue to Promote Economic Development Through Financing Small Businesses

Frost supports the Federal Reserve's intent to revise the definition of economic development to better encourage activities most supportive of small business and farms, while improving the overall transparency of the definition. Small businesses have historically played a critical role in job creation, and it is more important than ever for banks to continue to provide financing to small businesses. Frost believes banks should continue to receive CRA consideration for activities that promote economic development by financing small businesses, including job creation, retention, and/or improvement in all of the five categories currently contained in the Interagency Questions and Answers.

It can be difficult to demonstrate that small business activity has created, retained, and/or improved LMI employment, so more clarity and flexibility in this area would be welcomed. We also recommend recognizing the "intent" of job creation when qualifying activities.

Frost also supports the inclusion of workforce development and job training programs as a separate prong of the economic development definition and agrees with the Federal Reserve's approach to include all economic development initiatives that include provisions for creating or improving access by LMI persons to jobs, job training, or workforce development.

Again, performance context on programs and services must be considered in order for examiners to understand fully the efforts made by financial institutions in promoting economic development.

E. The Federal Reserve Should Update and Clarify the Definition of Revitalization and Stabilization

Given the complexity of the existing definition and guidance on the revitalization and stabilization subcomponent of the community development definition, Frost welcomes and supports the Federal Reserve's initiative to provide clarity on areas and purposes. Frost has found that this can be the most challenging CRA purpose to understand and obtain qualifying information for proof of CRA.

F. Frost Supports Efforts to Provide Pre-Notice for Qualifying Activities

Frost supports the establishment of a publicly available, illustrative, and non-exhaustive list of qualifying activities for CRA consideration. Such a list will help banks ascertain which activities will receive CRA consideration, provide greater transparency, and enable improved consistency across banks being evaluated. We urge the Federal Reserve to establish an illustrative list of activity presumed to qualify in conjunction with other prudential regulators to ensure consistency between the lists. Ensuring the lists remain illustrative will also help to allow

CRA practitioners more flexibility in engaging in new and innovative activity, provided the Federal Reserve also establishes an efficient pre-approval process for activities not on the illustrative list.

To best encourage new and innovative activities, the Federal Reserve should establish a process for reviewing and approving or denying new activity requests within 30 days. Often, banks must move quickly to take advantage of innovative opportunities to serve their communities as they arise. Ensuring banks can quickly receive a determination on if a particular activity not already on the illustrative list is necessary to encourage innovative behavior.

VII. Ratings

Frost agrees that the process for assigning CRA evaluation ratings has been far too subjective, with examiner judgement and discretion often determining a bank's rated performance. Frost supports the efforts to better tie evaluation ratings to quantitative factors and performance context, while ensuring these objective processes remain flexible to encourage the most effective CRA activity.

A. The Federal Reserve Should Carefully Consider Changes to How Assessment Areas are Weighted

While Frost welcomes the efforts to better weight assessment areas based on the area's levels of activity, we urge the Federal Reserve to carefully consider whether the proposed weighted average approach is more effective than current weighting approaches, which may better ensure more clarity throughout an evaluation. Frost believes that the use of a deposits-weighted approach paired with proper performance context evaluations will better serve communities than the weighting approach including lending activities proposed in the ANPR.

While Frost appreciates the Federal Reserve's efforts to ensure all activity is properly assessed in the weighting approach, we encourage the Federal Reserve to re-evaluate the use of lending data, as it may not provide enough valuable insight to justify the burdens of properly collecting and recording the information. Frost believes weights should be grounded in levels of deposits within particular assessment areas since lending data will not necessarily provide much new usable information, and the use of a proper performance context tied with a deposits-weighted approach will best impact the various communities we serve.

B. High and Low Satisfactory Designations Should Not Be Eliminated

Frost contends that high and low satisfactory ratings have a role in the CRA rating process and should not be removed. As has been noted throughout the modernization effort, the vast majority of institutions receive a "Satisfactory" CRA rating. The high designation identifies banks that are achieving greater performance; conversely, the low designation identifies banks that must strive for better performance, and that designation can help to incentivize more activity as such banks may seek to move from a low satisfactory to a high satisfactory.

C. Use of Metrics & Weighting

Frost values the Federal Reserve's efforts to provide more quantitative factors around the various subtests performed to evaluate CRA performance. Establishing a quantitative matrix that clearly demonstrates how performance is evaluated and graded will help tie examiner discretion to a quantitative foundation. This in turn grounds ratings in more measurable metrics for both examiners and banks.

However, Frost continues to urge that the use of various matrices and metrics serve as the foundation for a flexible approach to CRA evaluation that fully considers the important context of each institutions' particular business model and CRA performance. Frost has a long history of serving its communities and would not want to be penalized under a new evaluation framework.

While we do believe that the use of matrices will increase transparency in developing retail and community benchmarks, we urge the Federal Reserve to avoid arbitrary test weights throughout the evaluation. Doing so establishes a CRA framework which ignores individual bank business models and responsive behavior in favor of a one-size fits all framework. Different business models should not be penalized under the new framework. In fact, the Federal Reserve should promote and encourage the best CRA activity however it gets accomplished. Establishing a framework where the quantitative thresholds for the retail and community development tests can be adjusted at the outset of an examination will best serve communities and properly reflect the actual activity banks engage in daily.

D. Data Collection and Reporting

Frost appreciates that the Federal Reserve is working to build much of their framework on the basis of existing data and to minimize new data collections in modernization efforts. We encourage the Federal Reserve to closely evaluate the real burdens of any new collection of data against the potential benefits of the new data in a modernized framework.

The existing CRA reporting requirements are very time-consuming, documentation-intensive, and costly. We hope while working to create a new modernized CRA framework, the Federal Reserve will establish an implementation timeline of any final rule and corresponding data collection which properly allows for banks to align their systems with the new framework. Major structural overhauls to the framework will inherently take much time and effort by regulated institutions. Providing enough time to properly collect new data will be vital to the modernized framework's success.

Frost is celebrating its 153rd year of giving customers a square deal, keeping their assets safe and sound, and demonstrating that everyone is significant. Frost has a very strong corporate culture driven by three core values: Integrity, Caring, and Excellence. These core values are directed toward each other, our customers, our shareholders, and our communities. Serving all segments of our communities and making people's lives better is an integral part of the overall philosophy of Frost. While we support CRA reform, we do so with the understanding we do not want to see CRA lose its overall purpose of ensuring banks continue to meet their obligation to serve the needs of their entire communities, including low- and moderate-income areas, consistent with safe and sound banking practices. We are pleased that the ANPR seeks to provide clarity and consistency to the evaluation of CRA performance and believe such reform could ultimately benefit those parties which the CRA was designed to protect.

We appreciate the efforts of the Federal Reserve to modernize CRA and hope you will consider our comments in any future rule making. Please contact Donna C Normandin, Frost CRA Officer at (210) 220-4851 with any questions or for further information regarding the contents of this letter.

Sincerely yours,

FROST BANK

Phillip D. Green
CEO & Chairman of the Board

cc: Board of Governors of the Federal Reserve System
Charles Cooper, Commissioner, Texas Department of Banking
Robert L. Triplett, III, Senior Vice President, Federal Reserve Bank of Dallas